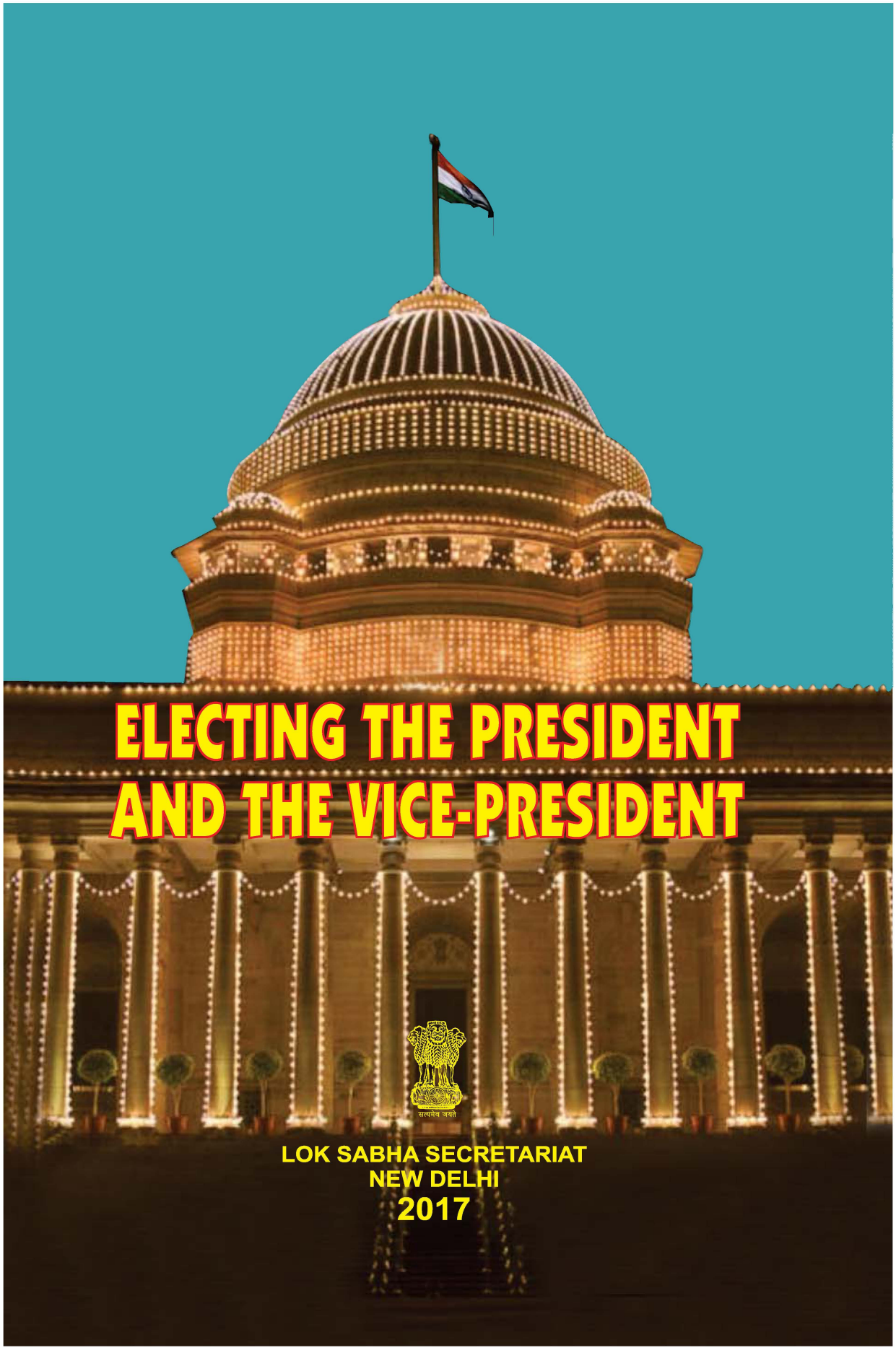

ELECTING THE PRESIDENT AND THE VICE-PRESIDENT

LOK SABHA SECRETARIAT
NEW DELHI
2017

ELECTING THE PRESIDENT

AND

THE VICE-PRESIDENT

LOK SABHA SECRETARIAT
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PREFACE

The President of India is the constitutional head of our country. Next to the President, the Vice-President holds the second-highest constitutional office. The fifteenth election to the offices of the President and the Vice-President is due in 2017. On this occasion, a brochure is being brought out in an endeavour to provide information in respect of the constitutional provisions governing the election to the offices of the President and the Vice-President. The brochure also gives an account of the processes and procedures followed for conducting these elections. Commencing with the issue of notification by the Election Commission of India to appointment of the Returning Officer and till declaration of the results, the brochure is an insight into the various phases as delineated in the Presidential and Vice-Presidential Elections Act, 1952 and the Rules made thereunder.

I place on record my gratitude to the Election Commission of India and the Ministry of Law and Justice for their cooperation in providing valuable inputs. I sincerely appreciate the efforts of the Legal and Constitutional Affairs Wing of the Lok Sabha Secretariat in bringing out this edition.

It is hoped that the brochure will be found useful and informative.

NEW DELHI;
June, 2017

ANOOP MISHRA,
Secretary-General,
Lok Sabha.

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INTRODUCTION

The founding fathers resolved to constitute India into a Republic and duly enshrined it in the Preamble to the Constitution of India, making people of the country the source of all authority. In the institutional framework of governance, President holds the highest elective office and is the first citizen of the country. He is the Head of State of the Republic of India and the formal Head of the Union Legislature and the Executive.

The course chosen by the framers of the Constitution for election to the office of the President is broad-based. The President is elected by the elected representatives of the people of both Houses of Parliament and of the Legislative Assemblies of the States and Union Territories possessing an Assembly. In that sense, the incumbent to the office of the President is indirectly chosen by the nation as a whole.

A vacancy in the office of the President may arise: on expiry of the term of five years; by reason of death; resignation; removal by impeachment; or otherwise, *e.g.,* on setting aside the election of President.

According to article 57, a person who holds, or who has held office as President shall, subject to the other provisions of this Constitution, also be eligible for re-election to that office.

As regards the Vice-President of India, the Constitution of India has made a provision for his election by an electoral college consisting of the members of both Houses of Parliament.

A vacancy in the office of the Vice-President may arise: on expiry of the term of five years; by reason of death; resignation; removal; or otherwise, *e.g.,* on setting aside the election of Vice-President.

Though there is no specific provision corresponding to article 57, making the Vice-President eligible for re-election, but Explanation* to article 66 suggests that a sitting Vice-President is eligible for re-election.

Elections to the offices of President and Vice-President of India are governed by the provisions contained in articles 54 to 58 and 62, 66 to 68 and 71 of the Constitution, the Presidential and Vice-Presidential Elections Act, 1952 and the Rules made there under, *viz.* the Presidential and Vice-Presidential Elections Rules, 1974. Elections to these offices are in accordance with the system of proportional representation by means of the single transferable vote by a secret ballot. Under

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* Explanation to article 66 provides that a person shall not be deemed to hold any office of profit by reason only that he is the President or Vice-President of the Union or the Governor of any State or is a Minister either for the Union or for any State.

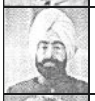
article 324 of the Constitution of India, the authority to conduct these elections is vested in the Election Commission of India.

The first election to the offices of President[1] and Vice-President was held in 1952. The fifteenth election to these offices is due in 2017 before the present President, who assumed the office on 25 July 2012, and the Vice-President, who assumed the office on 11 August 2012 upon his reelection, complete their terms.

[1]Dr. Rajendra Prasad was elected as the interim President by the Constituent Assembly on 24 January 1950 which he continued to hold till he was elected as the President of India in the First Presidential Election in 1952.

Table : 1

FORMER PRESIDENTS OF INDIA

	Name	Assumption of office and tenure**
	Dr. Rajendra Prasad	13 May 1952 — 13 May 1957* and 13 May 1957—13 May 1962 (Second term)
	Dr. Sarvepalli Radhakrishnan	13 May 1962 — 13 May 1967
	Dr. Zakir Husain	13 May 1967 — 3 May 1969[$]
	Shri V.V. Giri	24 August 1969 — 24 August 1974[@]
	Shri Fakhruddin Ali Ahmed	24 August 1974 — 11 February 1977[#]
	Dr. Neelam Sanjiva Reddy	25 July 1977 — 25 July 1982
	Giani Zail Singh	25 July 1982 — 25 July 1987
	Shri R. Venkataraman	25 July 1987 — 25 July 1992
	Dr. Shanker Dayal Sharma	25 July 1992 — 25 July 1997
	Shri K.R. Narayanan	25 July 1997 — 25 July 2002
	Dr. A.P.J. Abdul Kalam	25 July 2002 — 25 July 2007
	Smt. Pratibha Devisingh Patil	25 July 2007 — 25 July 2012
	Shri Pranab Mukherjee	25 July 2012 — till date

* Dr. Rajendra Prasad was the interim President from 26 January 1950 to 13 May 1952.
[$] Shri V.V. Giri was the Acting President from 3 May to 20 July 1969.
[@] Shri M. Hidayatullah was the Acting President from 20 July 1969 to 24 August 1969.
[#] Shri B.D. Jatti was the Acting President from 11 February 1977 to 25 July 1977.
** http://presidentofindia.nic.in/former-presidents.htm

Table : 2

ELECTORAL PARTICIPATION IN PRESIDENTIAL ELECTIONS*

Sl. No.	Date and Year of Election	Total Electors	No. of State Legislative Assemblies	Contestants (with value of votes)	Value of Individual Votes		Total Value of Votes Polled	Date of Notification for Declaring the Result
					MP	MLA		
1	2	3	4	5	6	7	8	9
1.	04.04.1952	4056	23	**5** [**Dr. Rajendra Prasad (Winning Candidate)** - 5,07,400; Shri K.T.Shah - 92,827; Shri Thatte Lakshman Ganesh - 2,672; Shri Hari Ram - 1,954; Smt. Krishna Kumar Chatterjee-533]	494	7 to 143	605386	06.05.1952
2.	06.04.1957	—@	14	**3** [**Dr. Rajendra Prasad (Winning Candidate)** -4,59,698; Shri Nagendra Narayan Das - 2,000; Chowdhry Hari Ram - 2,672]	496	59 to 147	464370	10.05.1957
3.	06.04.1962	—@	15	**3** [**Dr. Sarvepalli Radhakrishnan (Winning Candidate)** - 5,53,067; Chowdhry Hari Ram -6,341; Shri Yamuna Prasad Trisulia-3,537]	493	59 to 147	562945	11.05.1962

4.	03.04.1967	4131	17	**17** [**Dr. Zakir Husain (Winning Candidate)** - 4,71,244; Shri Kota Subbarao - 3,63,971; Shri Khubi Ram - 1,369; Shri Yamuna Prasad Trisulia - 750; Smt. Bhamburkar Shriniwas Gopal-232; Shri Brahma Deo - 232; Shri Krishna Kumar Chatterjee - 125; Shri Kumar Kamla Singh-125; Shri Chandradutt Senani, Shri U.P. Chugani, Dr. M.C. Davar, Ch.Hari Ram, Dr. Man Singh, Smt. Manohara Holkar, Shri Motilal Bhikabhai Patel, Shri Seetharamaiah Ramaswamy Sharma Hoysala, Shri Satyabhakt - 0 each]	576	8 to 174	838048	09.05.1967
5.	14.07.1969	—@	—@	**15** [**Shri. V.V. Giri (Winning Candidate)** - 4,01,515; Shri Neelam Sanjiva Reddy -3,13,548; Shri C.D.Deshmukh - 1,12,769; Shri Chandradatt Senani - 5,814; Smt. Furcharan Kaur - 940; Shri Rajabhoj Pandurang Nathuji - 831; Pandit Babu Lal Mag - 576; Ch. Hari Ram - 125; Shri Sharma Manovihari Anirudh - 125; Shri Khubi Ram - 94; Shri Bhagmal, Shri Krishna Kumar Chatterjee, Shri Santosh Kumar Kachhwaha, Doctor Ramdular Tripathi Chakor, Shri Ramanlal Purushottam Vyas - 0 each]	—@	—@	836337	20.08.1969
6.	16.07.1974	4405	21	**2** [**Shri Fakhruddin Ali Ahmed (Winning Candidate)** - 7,65,587; Shri Tridhib Chaudhuri -1,89,196]	723	9 to 208	954783	20.08.1974

1	2	3	4	5	6	7	8	9
7.	04.07.1977	4532	22	**1** [**Shri Neelam Sanjiva Reddy (Elected unopposed)**]	702	7 to 208	Uncontested	21.07.1977
8.	09.06.1982	4583	22	**2** [**Giani Zail Singh (Winning Candidate)** - 7,54,113; Shri. H.R.Khanna-2,82,685]	702	7 to 208	1036798	15.07.1982
9.	10.06.1987	4695	25	**3** [**Shri R. Venkataraman (Winning Candidate)** -7,40,148; Shri. V.R. Krishna Iyer - 2,81,550; Shri Mithilesh Kumar-2,223]	702	7 to 208	1023921	17.07.1987
10.	10.06.1992	4748	25	**4** [**Dr. Shanker Dayal Sharma (Winning Candidate)** - 6,75,864; Shri G.G. Swell-3,46,485; Shri Ram Jethamalani - 2,704; Kaka Joginder Singh Urf Dharti-Pakad - 1,135]	702	7 to 208	1026188	17.07.1992
11.	09.06.1997	4848	27	**2** [**Shri K.R. Narayanan (Winning Candidate)** -9,56,290; Shri T.N. Seshan-50,631]	708	7 to 208	1006921	22.07.1997
12.	11.06.2002	4896	30	**2** [**Dr. A.P.J. Abdul Kalam (Winning Candidate)** - 9,22,884; Smt. Lakshmi Sahgal-1,07,366]	708	7 to 208	1030250	18.07.2002

13.	16.06.2007	4896	30	**2** [**Smt. Pratibha Devisingh Patil (Winning Candidate)** - 6,38,116; Shri Bhairon Singh Shekhawat - 3,31,306]	708	7 to 208	969422	21.07.2007
14.	16.06.2012	4896	30	**2** [**Dr. Pranab Mukherjee (Winning Candidate)** -7,13,763; Shri P.A. Sangma-3,15,987;]	708	7 to 208	1029750	22.07.2012

*Source : Publication by Election Commission of India:—

i. Election to the Office of President of India 2017.

ii. Electoral Statistics Pocket Book 2016.

@ Information not available with Election Commission of India.

Table : 3

FORMER VICE-PRESIDENTS OF INDIA

	Name	Assumption of office and tenure[#]
	Dr. Sarvepalli Radhakrishnan	13 May 1952 — 12 May 1957 and 13 May 1957—12 May 1962 (Second term)
	Dr. Zakir Husain	13 May 1962 — 12 May 1967
	Shri V.V. Giri	13 May 1967 — 03 May 1969
	Shri G.S.Pathak	31 August 1969 — 30 August 1974
	Shri B.D.Jatti	31 August 1974 — 30 August 1979
	Shri M. Hidayatullah	31 August 1979 — 30 August 1984
	Shri R. Venkataraman	31 August 1984 — 24 July 1987
	Dr. Shanker Dayal Sharma	03 September 1987 — 24 July 1992
	Shri K.R. Narayanan	21 August 1992 — 24 July 1997
	Shri Krishan Kant	21 August 1997 — 27 July 2002
	Shri Bhairon Singh Shekhawat	19 August 2002 — 21 July 2007
	Shri Mohammad Hamid Ansari	11 August 2007 — 10 August 2012 and 11 August 2012 — Till date (Second term)

[#] http://vicepresidentofindia.nic.in/former-vice-presidents

Table : 4

ELECTORAL PARTICIPATION IN VICE-PRESIDENTIAL ELECTIONS*

Sl. No.	Date and Year of Election	Total Electors	Valid Contestants (with value of votes)	Valid Votes Polled	Date of Notification for Declaring the Result
1	2	3	4	5	6
1.	12.04.1952	715	**1** [**Dr. Sarvepalli Radhakrishnan (Elected Unopposed)**]	Uncontested	25.04.1952
2.	09.04.1957	735	**1** [**Dr. Sarvepalli Radhakrishnan (Elected Unopposed)**]	Uncontested	23.04.1957
3.	06.04.1962	745	**2** [**Dr. Zakir Husain (Winning Candidate)** - 568; Shri N.C. Samantsinhar-14]	582	08.05.1962
4.	03.04.1967	749	**2** [**Shri V.V.Giri (Winning Candidate)** - 483; Prof. Habib-193]	676	08.05.1967
5.	31.07.1969	759	**6** [**Shri G.S. Pathak (Winning Candidate)** - 400; Value of votes polled against other candidates—@]	—@	30.08.1969
6.	26.07.1974	767	**2** [**Shri B.D.Jatti (Winning Candidate)** - 521; Shri N.E.Horo-141]	662	27.08.1974
7.	23.07.1979	—@	**1** [**Shri Mohammad Hidayatullah (Elected Unopposed)**]	Uncontested	10.08.1979

1	2	3	4	5	6
8.	20.07.1984	788	**2** [**Shri R. Venkataraman (Winning Candidate)** - 508; Shri Bapu Chandrasen Kamble-207]	715	22.08.1984
9.	04.08.1987	790	**1** [**Dr. Shanker Dayal Sharma (Elected Unopposed)**]	Uncontested	21.08.1987
10.	17.07.1992	790	**2** [**Shri K.R.Narayanan (Winning Candidate)** - 700; Shri Kaka Joginder Singh *urf* Dharti Pakad-1]	701	19.08.1992
11.	15.07.1997	790	**2** [**Shri Krishan Kant (Winning Candidate)** - 441; Shri Surjit Singh-273]	714	16.08.1997
12.	10.07.2002	790	**2** [**Shri Bhairon Singh Shekhawat (Winning Candidate)** - 454; Shri Sushil Kumar Shinde-305]	759	16.08.2002
13.	09.07.2007	790	**3** [**Shri Mohammad Hamid Ansari (Winning Candidate)** - 455; Dr. (Smt.) Najma A. Heptulla-222; Shri Rasheed Masood-75]	752	10.08.2007
14.	06.07.2012	790	**2** [**Shri Mohammad Hamid Ansari (Winning Candidate)** - 490; Shri Jaswant Singh-238]	728	07.08.2012

*Source : Publication by Election Commission of India:—
i. Election to the Office of Vice-President of India 2017.
ii. Electoral Statistics Pocket Book 2016.
@ Information not available with Election Commission of India.

CONSTITUTIONAL PROVISIONS

WHO CAN BE A CANDIDATE?

(A) PRESIDENT

Article 58 of the Constitution provides that no person shall be eligible for election as President unless he :—

(a) is a citizen of India,

(b) has completed the age of thirty-five years, and

(c) is qualified for election as a member of the House of the People.

A person shall not be eligible for election as President if he holds any office of profit under the Government of India or the Government of any State or under any local or other authority subject to the control of any of the said Governments. However, a person shall not be deemed to hold any office of profit by reason only that he is the President or Vice-President of the Union or the Governor of any State or is a Minister either for the Union or for any State.

A member of Parliament or of a State Legislature can seek election to the office of the President but if he is elected as President, he shall be deemed to have vacated his seat in Parliament or State Legislature on the date on which he enters upon his office as President [Article 59(1)].

Article 57 provides that a person who holds, or who has held, office as President shall, subject to the other provisions of this Constitution, be eligible for re-election to that office.

(B) VICE-PRESIDENT

According to article 66(3) of the Constitution, no person shall be eligible for election as Vice-President unless he:—

(a) is a citizen of India,

(b) has completed the age of thirty-five years, and

(c) is qualified for election as a member of the Council of States.

A person shall not be eligible for election as Vice-President if he holds any office of profit under the Government of India or the Government of any State, or under any local or other authority subject to the control of any of the said Governments. However, a person shall not be deemed to hold any office of profit by reason only that he is the President or Vice-President of the Union or the Governor of any State or is a Minister either for the Union or for any State.

Article 66(2) provides that the Vice-President shall not be a member of either House of Parliament or of a House of the Legislature of any State, and if a member of either House of Parliament or of a House of the Legislature of any State be elected Vice-President, he shall be deemed to have vacated his seat in that House on the date on which he enters upon the office as Vice-President.

According to *Explanation* to article 66, a person shall not be deemed to hold any office of profit by reason only that he is the President or Vice-President of the Union or the Governor of any State or is a Minister either for the Union or for any State. In that case, it suggests that a sitting Vice-President is eligible for re-election.

TIME OF ELECTION

(A) PRESIDENT

Article 56(1) of the Constitution provides that the President shall hold office for a term of five years from the date on which he enters upon his office.

According to article 62, an election to fill a vacancy caused by the expiration of the term of office of President shall be completed before the expiration of the term. An election to fill a vacancy in the office of President occurring by reason of his death, resignation or removal, or otherwise shall be held as soon as possible after, and in no case later than six months from, the date of occurrence of the vacancy; and the person elected to fill the vacancy shall, subject to the provisions of article 56, be entitled to hold office for the full term of five years from the date on which he enters upon his office.

To meet the contingency of an election to the office of President not being completed in time due to unforeseen circumstances like countermanding of election due to death of a candidate or on account of postponement of the poll for any valid reason, article 56(1)(c) provides that the President shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

As the President, Shri Pranab Mukherjee will be completing his five-year term on 24 July 2017, it is necessary that process of Presidential Election is completed and result declared in time so that the new President takes over on 25 July 2017.

(B) VICE-PRESIDENT

Article 67 of the Constitution lays down that the Vice-President shall hold office for a term of five years from the date on which he enters upon his office.

According to article 68, an election to fill a vacancy caused by the expiration of the term of office of Vice-President shall be completed before the expiration of the term. An election to fill a vacancy in the office of Vice-President occurring by reason of his death, resignation or removal, or otherwise shall be held as soon as possible after the occurrence of the vacancy, and the person elected to fill the vacancy shall, subject to the provisions of article 67, be entitled to hold office for the full term of five years from the date on which he enters upon his office.

To meet the contingency of an election to the office of the Vice-President not being completed in time due to unforeseen circumstances, article 67(c) provides that the Vice-President shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

As the Vice-President, Shri Mohammad Hamid Ansari will be completing his second five-year term on 10 August 2017, it is necessary that process of Vice-Presidential Election is completed and result declared in time so that the new Vice-President takes over on 11 August 2017.

ELECTORAL COLLEGE

(A) PRESIDENT

According to article 54 of the Constitution, the President of India shall be elected by the members of an electoral college consisting of (a) elected members of both Houses of Parliament; and (b) the elected members of the Legislative Assemblies of the States.

Section 2 of the Constitution (Seventieth) Amendment Act, 1992 (*w.e.f.* 1 June 1995) inserted an Explanation to article 54 of the Constitution. It reads as under:

"*Explanation*—In this article and in article 55, "State" includes the National Capital Territory of Delhi and the Union territory of Puducherry."

Accordingly, the electoral college for the Presidential Election now consists of (a) the elected members of both Houses of Parliament; and (b) the elected members of the Legislative Assemblies of the States, including the NCT of Delhi and the Union territory of Puducherry.

The nominated members of both the Houses of Parliament and the Legislative Assemblies of the States are not entitled to vote in the election of the President. Also, the members of the Legislative Councils in the States are not included in the electoral college for the election of the President.

LANDMARK JUDGMENTS ON ELECTORAL COLLEGE

*Eligibility of the Disqualified Members to Vote**

After the coming into force of the anti-defection law, there had arisen a controversy whether an MP or MLA disqualified under the law was eligible to vote in a Presidential Election when his appeal against his disqualification was pending in a court of law. Twenty two members of the Punjab Legislative Assembly were disqualified by the Speaker on the grounds of defection in 1987. During the trial of their Special Leave Petition, the Supreme Court[@] in its interim order dated 7 May 1987 had held that if any Presidential Election was to be held before the hearing of

* Election to the Office of the President of India, 2017, brought out by the Election Commission of India, New Delhi.

@ Sardar Prakash Singh Badal and others *Vs*. Union of India JT 1987(2) SC 397.

the matter, the disqualified members would be entitled to participate in the poll and could cast their votes as if they had not been disqualified. On a clarification sought by the Election Commission, the Supreme Court by an order dated 22 June 1987 held that participation includes proposing and seconding of nomination of candidates. The votes cast by these members might be separately marked and after counting kept separately until final disposal of its case. The Court also indicated that such further directions as might be needed might be taken at the time of hearing of the matter.

Pursuant to the above directions, the names of the 22 members of the Legislative Assembly concerned were included in the list of members of the electoral college.

In order to give effect to the directions of the Supreme Court, the Election Commission laid down the following procedure for observance by the Assistant Returning Officer, *i.e.* Secretary of the Punjab Legislative Assembly:—

(i) Every ballot paper issued to the above mentioned 22 members or the postal ballot paper if issued to any of them on the ground of his being under preventive detention, and the counterfoil thereof shall be prominently marked on their back with a rubber stamp to be supplied by the Election Commission containing the words "permitted to vote under direction of the Supreme Court";

(ii) For the purpose of issue of ballot papers to the above mentioned 22 members, a separate packet consisting of the last 25 ballot papers supplied for use of electors at Chandigarh shall be set apart;

(iii) An additional polling officer shall be posted for issue of ballot papers to the 22 members concerned. He shall be supplied with the list of members of the Punjab Legislative Assembly;

(iv) The additional polling officer shall be seated near the other polling officers and polling agents so that it does not become necessary for candidates to appoint additional polling agents;

(v) The procedure for issue and marking of ballot papers by the 22 disqualified members and their insertion into the ballot box shall be the same as is applicable for the other members;

(vi) After the close of poll, the marked copy of the list of electors supplied to the additional polling officer mentioned above, the counterfoils of ballot papers issued to the members referred to above, and the unused ballot papers with said additional polling officer shall be placed in separate packets by the Assistant Returning Officer and shall be sealed and secured in the manner prescribed under rule 21(1) of the Presidential and

Vice-Presidential Elections Rules, 1974 and forwarded to the Returning Officer along with other election records pertaining to the polling station.

Pending the decision of the Supreme Court on the above mentioned application of the Election Commission seeking clarification whether the votes so cast by the members of the Punjab Legislative Assembly could be taken into account by the Returning Officer for the purpose of determination and declaration of the results of the election, the Commission laid down the following procedure for counting of votes in case the Court issued a direction that the votes cast by 22 disqualified members should be counted:—

(i) When the ballot box containing the ballot papers cast by members of Punjab Legislative Assembly is taken up, the number of votes found in the ballot box be tallied with the number of votes cast.

(ii) Thereafter, the folded ballot papers shall be unfolded in such a manner as preferences marked thereon are not seen. For this purpose the face of the unfolded ballot papers shall be kept downwards.

(iii) Thereafter, detailed scrutiny of the unfolded ballot papers shall be made. Scrutiny shall consist of two stages. In the first stage, genuineness of the ballot papers shall be ascertained with reference to the matter on their back but marking thereon shall not be seen or scrutinized. In the second stage, all the ballot papers shall be kept together in the form of bundles and reversed upside down and then taken up for detailed scrutiny. It shall be ensured that reverse side is not shown to or seen by anybody. Thereafter, the counting of votes shall proceed in the prescribed manner.

(iv) After the completion of the counting, the ballot papers cast by the aforementioned members have to be separated from the rest as they are required to be kept separately under the directions of the Supreme Court. For this purpose, only the back portion of the ballot papers cast by the members of the Punjab Legislative Assembly which would have been kept at the time of counting in separate packets candidate-wise may be scrutinized and the ballot papers which bear the mark of the rubber stamp mentioned above at their back may be separated from the rest and taken out. All such papers be kept in a separate sealed packet.

However, if the Supreme Court ordered that the ballot papers of 22 members shall not be counted, these papers shall be taken out by seeing the rubber stamp marks on their back. These shall, however, neither be unfolded nor the preferences marked thereon shall be seen or scrutinized.

The Supreme Court, however, ordered on 14 July 1987 that the votes cast by the members shall be counted but shall be kept separately after counting. A copy of the order of the Supreme Court was sent to the Returning Officer on 15 July 1987.

Elections declared void by the High Court but stay orders issued by the Supreme Court*

Another important feature of the Ninth Presidential Election held in 1987 was that five members of the electoral college—two of Andhra Pradesh Legislative Assembly and one each of Rajasthan, Uttar Pradesh and Punjab Legislative Assemblies were not entitled to cast their votes as their elections had been declared void by the respective High Courts but orders of the High Courts were stayed by the Supreme Court.

Vacancy in the Electoral College due to Dissolution of Assembly

The Constitution lays down that all doubts and disputes arising out of or in connection with the election of a President or Vice-President shall be inquired into and decided by the Supreme Court whose decision shall be final. The election of a person as President or Vice-President shall not be called in question on the ground of the existence of any vacancy for whatever reason among the members of the electoral college electing him. (*Article 71*)

A reference@ was made by the President under article 143(1) of the Constitution on 30 April 1974 for the opinion of the Supreme Court on certain questions of constitutional importance bearing upon the election to fill the vacancy on the expiry of the term of office of the President on 24 August 1974. The reference made was regarding the principal question as to whether the election to fill the vacancy caused on the expiry of the term of office of the President must be completed before the expiry of the term of office notwithstanding the fact that the Legislative Assembly of the State of Gujarat had been dissolved.

The Court in its opinion stated that the term of office of the President was fixed. The election to fill the vacancy caused by the expiration of the term was to be completed before the expiration of the term. The members of the electoral college mentioned in article 54 are members of both Houses of Parliament and Legislative Assemblies of the States. The essence as well as the scope of article 54 is merely to prescribe the qualifications required for electors to elect the President. The electoral college as mentioned in article 54 is independent of the Legislatures. None of the Legislatures for the purpose of that article has any separate identity *vis-à-vis* the electoral college. The dissolution of the Assembly means that there are no elected members of the dissolved Assembly. The elected members of the dissolved Assembly of a State are no longer members of the electoral college consisting of the elected members of both Houses of Parliament and elected

* Election to the Office of the President of India, 2017, brought out by the Election Commission of India, New Delhi.

@ In re. Presidential Election 1974, AIR 1974 SC 1682.

members of Legislative Assemblies of the States and are, therefore, not entitled to cast votes at the Presidential election.

The Court further stated that the Gujarat State Assembly had been dissolved under article 174. As a result of the dissolution there were no elected members of the Legislative Assembly in that State. That matter would not be a ground either for preventing or holding of the election on the expiry of the term of the President or suggesting that the election to fill the vacancy caused by the expiry of the term of office of the President could be held only after the election to the Legislative Assembly of the State where the Legislative Assembly was dissolved.

The Court further opined that the election to the office of the President must be held before the expiration of the term of the President notwithstanding the fact that at the time of such election, the Legislative Assembly of a State was dissolved.

MANNER OF ELECTION AND VALUE OF VOTES

(A) PRESIDENT

Article 55 of the Constitution stipulates that, as far as practicable, there shall be uniformity in the scale of representation of the different States at the election of the President. For the purpose of securing such uniformity among the States *inter se* as well as parity between the States as a whole and the Union, the number of votes which each elected member of Parliament and the Legislative Assembly of each State is entitled to cast at such election shall be determined in the following manner:—

(a) every elected member of the Legislative Assembly of a State shall have as many votes as there are multiples of one thousand in the quotient obtained by dividing the population of the State by the total number of the elected members of the Assembly;

(b) if, after taking the said multiples of one thousand, the remainder is not less than five hundred, then the vote of each member referred to in (a) above shall be further increased by one;

(c) each elected member of either House of Parliament shall have such number of votes as may be obtained by dividing the total number of votes assigned to the members of the Legislative Assemblies of the State under sub-clauses (a) and (b) by the total number of elected members of both Houses of Parliament, fractions exceeding one-half being counted as one and other fractions being disregarded.

The election to office of the President is held in accordance with the system of proportional representation by means of the single transferable vote and the voting is by secret ballot.

For the purpose of calculation of value of votes, the Constitution (Eighty-fourth) Amendment Act, 2001 provides that in this article, the expression

"population" shall mean the population as ascertained at the 1971 Census until the relevant population figures for the first census to be taken after the year 2026 have been published.

The value of votes of Members of Parliament and members of each Legislative Assembly in the electoral college is determined by the Election Commission in accordance with the aforesaid procedure and the value of votes, supplied to the Returning Officer by the Election Commission on the eve of the Presidential Election 2017, are given below in Tables 5 and 6.

Table: 5

VALUE OF VOTES OF ELECTED MPs AT THE PRESIDENTIAL ELECTION, 2017

- **Value of vote of each Member of Parliament**

  Total number of elected MPs = Lok Sabha [543] + Rajya Sabha [233] = 776

  Total value of votes of the elected MLAs of all the States = 5,49,495

  Value of vote of each MP = 5,49,495 ÷ 776 = 708

- **Total value of votes of 776 Members of Parliament**

  708 x 776 = 5,49,408

- **Total electors for the Presidential Election, 2017**

  = MLAs [4120] + MPs [776] = 4896

- **Total value of 4896 electors for the Presidential Election, 2017**

  Total value of votes of 776 MPs and total value of votes of the elected MLAs of all the States

  = 5,49,408 + 5,49,495 = 10,98,903

Table: 6

STATEMENT SHOWING THE VALUE OF VOTES OF ELECTED MLAs OF DIFFERENT STATES AT THE PRESIDENTIAL ELECTION 2017[@]

Name of State	No. of Assembly Seats (Elective)	Population 1971 Census	Value of Votes of each MLA	Total Value of Votes for the State	
Andhra Pradesh	175	27800586	159	159x175=	27825
Arunachal Pradesh	60	467511	8	008x060=	480
Assam	126	14625152	116	116x126=	14616
Bihar	243	42126236	173	173x243=	42039
Chhattisgarh	90	11637494	129	129x090=	11610
Goa	40	795120	20	020x040=	800
Gujarat	182	26697475	147	147x182=	26754
Haryana	90	10036808	112	112x090=	10080
Himachal Pradesh	68	3460434	51	051x068 =	3468
Jammu and Kashmir*	87	6300000	72	072x087 =	6264
Jharkhand	81	14227133	176	176x081=	14256
Karnataka	224	29299014	131	131x224=	29344
Kerala	140	21347375	152	152x140=	21280
Madhya Pradesh	230	30016625	131	131x230=	30130
Maharashtra	288	50412235	175	175x288=	50400
Manipur	60	1072753	18	018x060 =	1080
Meghalaya	60	1011699	17	017x060=	1020
Mizoram	40	332390	8	008x040=	320
Nagaland	60	516449	9	009x060=	540
Odisha	147	21944615	149	149x147=	21903
Punjab	117	13551060	116	116x117=	13572
Rajasthan	200	25765806	129	129x200=	25800
Sikkim	32	209843	7	007x032=	224
Tamil Nadu	234	41199168	176	176x234=	41184
Telangana	119	15702122	132	132x119=	15708
Tripura	60	1556342	26	026x060 =	1560
Uttarakhand	70	4491239	64	064x070 =	4480
Uttar Pradesh	403	83849905	208	208x403=	83824
West Bengal	294	44312011	151	151x294=	44394
NCT of Delhi	70	4065698	58	058x070 =	4060
Puducherry	30	471707	16	016x030=	480
Total	4120	54,93,02,005			=5,49,495

@The Election Commission of India, New Delhi.
*Constitution (Application to the Jammu and Kashmir) Order, 1954.

(B) VICE-PRESIDENT

Article 66(1) of the Constitution provides that the Vice-President shall be elected by the members of an electoral college consisting of the members of both Houses of Parliament (including the nominated members) in accordance with the system of proportional representation by means of the single transferable vote by a secret ballot. The mode of election of the Vice-President differs from that of the President insofar as the elected members of the Legislative Assemblies of States do not form part of the electoral college for the election of the Vice-President.

WHO DECIDES THE ELECTION DISPUTES?

According to article 71 of the Constitution, all doubts and disputes arising out of or in connection with the election of a President or Vice-President shall be inquired into and decided by the Supreme Court whose decision shall be final. If the election of a person as President or Vice-President is declared void by the Supreme Court, acts done by him in the exercise and performance of the powers and duties of the office of President or Vice-President, as the case may be, on or before the date of the decision of the Supreme Court shall not be invalidated by reason of that declaration. Subject to the provisions of this Constitution, Parliament may by law regulate any matter relating to or connected with the election of a President or Vice-President. The election of a person as President or Vice-President shall not be called in question on the ground of the existence of any vacancy for whatever reason among the members of the electoral college electing him.

An election petition should be presented by a candidate or twenty or more electors joined together in the case of Presidential Election by a candidate or ten or more electors joined together in the case of Vice-Presidential Election, and may be presented at any time after the date of publication of the declaration containing the name of the returned candidate at the election under Section 12 (of the Presidential and Vice-Presidential Elections Act, 1952), but not later than 30 days from the date of such publication. Subject to these provisions, the Supreme Court, under article 145 of the Constitution, may regulate the form, manner and the procedures connected with such election petitions.

3. IMPORTANT FAQs ON ELECTING THE PRESIDENT AND VICE-PRESIDENT*

1. What is the system of voting for the election to the offices of the President and the Vice-President?

Answer: According to the Constitution of India, the election of the President and the Vice-President is to be held in accordance with the system of proportional representation by means of single transferable vote and the voting at such elections is by secret ballot.

2. How does the system of single transferable vote works?

Answer: The single transferable vote (STV) is a voting system designed to achieve proportional representation through ranked voting. Under this system, an elector (voter) has a single vote but with multiple graded preference. The elector can indicate preferences with the appropriate numerals against the names of candidates printed on the ballot paper. The vote is initially allocated to the most preferred candidate, yet each one vote has the potential to carry over through multiple counts, depending on the election or elimination of candidates. The process of redistribution/transfer of surplus votes from elected candidates and of the votes of the least successful candidates continues until the required number of members (which is one in the case of the President and one in the case of the Vice-President) is elected or reach a quota of votes needed to be a winner. Because votes cast for losing candidates and excess votes cast for winning candidates are transferred to voters' next choice candidates, the single transferable vote (STV) is said to minimize wasted votes.

3. What is the manner/procedure for recording votes at an election to the offices of the President and the Vice-President?

Answer: In accordance with the system of proportional representation by means of single transferable vote, every elector can mark as many preferences, as there are candidates contesting the election. These preferences for the candidates are to be marked by the elector, by placing the figures 1,2,3,4,5 and so on, against the names of the candidates, in the order of preference, in the space provided in column 2 of the ballot paper. The preference can be indicated in international form of Indian numerals or in the form used in any Indian language or in Roman form but the preferences cannot be indicated in words like one, two, first preference, second preference, etc.

4. Is it compulsory for an elector at the Presidential and the Vice-Presidential elections to mark the preference for all candidates?

Answer: No. Only the marking of first preference is compulsory for a ballot paper to be valid at the Presidential and the Vice-Presidential elections. Marking of other

*Source: Election Commission of India.

preferences is optional. The elector may mark as many preferences as she/he wishes in order of preference. However, no ballot paper shall be considered invalid solely on the ground that such preferences are not marked.

5. Is the value of votes of each elector the same?

Answer: In the Presidential election, the value of the votes of each member of Parliament is the same. However, the value of the votes in the case of members of Legislative Assemblies is different from State to State.

Unlike the Presidential election, the value of every vote in the Vice-Presidential election has the same value *i.e.* 1 (one).

6. What specifications are followed for the ballot papers printed for use in the elections to the offices of the President and the Vice-President?

Answer: In the case of the Presidential election, the ballot papers for the use of members of Parliament are printed in a colour different from the ones which are printed for the use of the members of the State Legislative Assemblies. There are two columns in the ballot paper—first column containing the names of the candidates and the second column for marking order of preference by the elector. The ballot paper does not contain any election symbol.

In the case of the Vice-Presidential election, ballot papers are printed in one colour as the electoral college consists of the members of Parliament (including the nominated members) only. The ballot papers are printed with two columns—first column containing the names of the candidates and the second column for marking order of preference by the elector. The ballot paper does not contain any election symbol.

7. Are the provisions of the Anti-Defection Law applicable in the case of the Presidential and the Vice-Presidential elections?

Answer: No. In both the cases, members of the electoral college can vote according to their conscience/choice/wish and they are not bound by any party whip. The voting is by secret ballot.

8. Can an elector at the Presidential and the Vice-Presidential elections exercise her/his vote by proxy?

Answer: No. An elector cannot exercise her/his vote by proxy.

9. Can a disabled or illiterate elector in the Presidential and the Vice-Presidential elections take the help of a companion to record her/his vote?

Answer: No. Unlike in Parliamentary and Assembly elections, an elector cannot take the help of a companion. She/he must take the assistance of the Presiding Officer to record her/his vote.

10. How can an elector who is under preventive detention at the time of the Presidential and the Vice-Presidential elections, cast her/his vote?

Answer: An elector under preventive detention can cast her/his vote through postal ballot. For this purpose, the Election Commission send the appropriate ballot paper together with a form of declaration of identity and attestation of signatures and necessary envelope specially prepared for the purpose and a letter of instructions to the officer-in-charge of the jail where the elector is detained. On the date of the poll, once the vote is recorded by the elector, the jail authorities send the ballot paper along with other papers either by registered post or through a special messenger.

11. Is the winner at the Presidential and the Vice-Presidential elections elected on the basis of obtaining simple majority or by securing a specified quota of votes?

Answer: As the Presidential and the Vice-Presidential elections are held in accordance with the system of proportional representation by means of the single transferable vote, every elector has as many preferences as candidates contesting the elections. In each case, the winning candidate has to secure the required quota of votes to be declared elected, *i.e.,* 50% of valid votes cast +(plus)1.

12. What is the amount of security deposit to be deposited by a candidate at the Presidential and the Vice-Presidential elections? When is the security deposit of a candidate forfeited?

Answer: In each case, the security deposit is ₹ 15000/- to be deposited either in cash with the Returning Officer or a receipt showing that the amount has been deposited by the candidate or on her/his behalf in the Reserve Bank of India or in a Government Treasury should be furnished along with the nomination paper.

The security deposit shall be forfeited if the candidate is not elected and the number of valid votes polled by the candidate does not exceed one-sixth of the number of votes necessary to secure return of a candidate at such election. In other cases, the deposit will be returned to the candidate.

4. THE PRESIDENTIAL AND VICE-PRESIDENTIAL ELECTIONS ACT, 1952 AND THE RULES MADE THEREUNDER

The Presidential and Vice-Presidential Elections Act, 1952 and the Rules framed thereunder, the Presidential and Vice-Presidential Elections Rules, 1974 as amended from time to time, lay down in detail the process and procedure for the election of the President and the Vice-President commencing with the appointment of the Returning Officers by the Election Commission.

APPOINTMENT OF THE RETURNING OFFICER

(A) PRESIDENT

The process of election starts with the issue of a notification by the Election Commission, in consultation with the Government of India, appointing a Returning Officer having his office in New Delhi (Sec. 3). By convention, which is well established, the Secretary-General, Lok Sabha or the Secretary-General, Rajya Sabha with the approval of the Speaker, Lok Sabha or the Chairman, Rajya Sabha, as the case may be, is appointed in rotation, as the Returning Officer to conduct such an election. For the 2012 Presidential Election, the Secretary-General, Rajya Sabha was appointed as the Returning Officer. Therefore, for the 2017 Presidential Election, the Secretary-General, Lok Sabha has been appointed as the Returning Officer. One or more Assistant Returning Officers, may also be appointed at the Centre; his name is suggested by the Returning Officer with the approval of the Speaker, Lok Sabha/Chairman, Rajya Sabha, as the case may be. Secretaries and one more senior officer of the Legislative Assemblies of all the States are appointed as Assistant Returning Officers because members of the State Legislative Assemblies normally cast their votes in their respective State Capitals. Every Assistant Returning Officer is competent to perform all or any of the functions of the Returning Officer [Sec. 3(2)].

(B) VICE-PRESIDENT

The aforesaid provisions also apply to the appointment of Returning Officer for election to the office of the Vice-President. For the election held in 2012, the Secretary-General, Lok Sabha was the Returning Officer and two officers of the Lok Sabha Secretariat were appointed as Assistant Returning Officers. For the Vice-Presidential Elections to be held in 2017, the Secretary-General, Rajya Sabha would be appointed the Returning Officer.

NOTIFICATION OF ELECTION

(A) PRESIDENT

The Election Commission issues a notification for election to the office of the President on, or as soon as conveniently may be after, the sixtieth day before

the expiration of the term of office of the outgoing President. The dates are so appointed that the election is completed at such time as would enable the President thereby elected to enter upon his office on the day following the expiration of the term of the office of the outgoing President. [Section 4(3)]

In case of an election to fill a vacancy in the office of the President occurring by reason of his death, resignation or removal or otherwise, the Commission issues the notification as soon as may be after the occurrence of the vacancy.

The notification of election *inter alia* contains announcement regarding:

(i) the last date for making nominations;

(ii) the date of scrutiny of nominations;

(iii) the last date for the withdrawal of candidatures; and

(iv) the date for taking the poll, if necessary.

If any of the dates either for making nominations or for the scrutiny of nominations or for withdrawal of candidatures, is a public holiday, the next succeeding day which is not a public holiday is taken as the appropriate date for the purpose. [Section 4(1)]

(B) VICE-PRESIDENT

Section 4 of the Act also provides for the issuance of the Notification regarding the election to the office of the Vice-President also.

The Election Commission issues a notification for election to the office of the Vice-President on, or as soon as conveniently may be after, the sixtieth day before the expiration of the term of office of the outgoing Vice-President. The dates shall be so appointed that the election will be completed at such time as will enable the Vice-President thereby elected to enter upon his office on the day following the expiration of the term of office of the outgoing Vice-President. [Section 4(3)]

PUBLIC NOTICE OF ELECTION

(A) PRESIDENT

On the issue of notification by the Election Commission fixing the programme for election, the Returning Officer issues a public notice of the intended election in the prescribed form (*Appendix I)* to the effect that—

(i) nomination papers should be delivered by a candidate or any one of his proposers or seconders to the Returning Officer in a designated room in Parliament House, New Delhi, between 11 a.m. and 3 p.m. on any day (other than a public holiday) not later than the last date for making nominations as notified by the Election Commission;

(ii) each nomination paper shall be accompanied by a certified copy of the entry relating to the candidate in the electoral roll for the Parliamentary Constituency in which the candidate is registered as an elector;

(iii) every candidate shall deposit or cause to be deposited a sum of ₹15,000 only*. This amount may be deposited in cash with the Returning Officer at the time of presentation of the nomination paper or deposited earlier in the Reserve Bank of India or in a Government Treasury, and in the latter case a receipt showing that the said deposit of the sum has been so made is required to be enclosed with the nomination paper;

(iv) forms of nomination papers may be obtained from the designated office at the time aforesaid;

(v) the nomination papers, other than those rejected under sub-section (4) of Section 5B of the Act, will be taken up for scrutiny at the said office in Parliament House in New Delhi on a specified date and time;

(vi) the notice of withdrawal of candidature may be delivered by a candidate, or any of his proposers or seconders who has been authorized in this behalf in writing by the candidate, to the Returning Officer before three o'clock in the afternoon of the last date for the withdrawal of candidatures as notified by the Election Commission; and

(vii) in the event of the election being contested, the poll will be taken on the date appointed by the Election Commission between the hours specified by the Election Commission at the places of polling fixed under the rules.

The public notice is issued by the Returning Officer on the same day on which Election Commission issues notification regarding programme for election and it is published in the extraordinary issues of the Gazette of India and the Gazettes of all States on the same day in the languages specified by the Election Commission. Copies of the public notice are sent to All India Radio, Doordarshan, LSTV and RSTV and various news agencies, for publication, broadcast and telecast.

Copies of public notice are also circulated to all members of Lok Sabha and Rajya Sabha through respective Secretariats on the same day. With the issuance of the public notice requests for nomination forms are received from all parts of the country. These requests are complied with promptly. To keep a record of persons to whom nomination papers are delivered in person, a receipt is obtained from each person collecting the ballot paper in person.

(B) VICE-PRESIDENT

The same provisions also apply to the election to the office of the Vice-President.

NOMINATION PAPERS

(A) PRESIDENT

Section 5A to 5D of the Act read with Rule 4 of the Rules deal with the nomination papers. Forms of nomination paper are got printed both in English and

* The Amount of security deposit was raised from ₹ 2,500 to ₹ 15,000 *vide* the Presidential and Vice-Presidential Elections (Amendment) Act, 1997.

Hindi, well in advance. A nomination paper should be completed in the prescribed form (*Appendix II*) subscribed by the candidate as assenting to the nomination, and also by at least fifty* electors as proposers and at least fifty* electors as seconders. No elector shall subscribe, whether as proposer or seconder, more than one nomination paper at the same election, and if he does so his signature shall be inoperative on any paper other than the one first delivered.

On the presentation of a nomination paper, the Returning Officer shall—

(a) sign thereon a certificate stating the date and time of presentation of the nomination paper and enter thereon its serial number;

(b) inform the person or persons presenting the nomination paper of the date, time and place fixed for the scrutiny of nomination; and

(c) caused to be affixed in some conspicuous place in his office a copy of the nomination paper as certified and numbered under clause (a). (Section 5D)

Where a candidate makes a deposit of ₹15,000/- in cash with the Returning Officer at the time of filing nomination paper, a receipt will be issued to him by the Returning Officer.

A candidate may be nominated by more than one nomination paper for the same election. However, not more than four nomination papers shall be presented by or on behalf of any candidate or accepted by the Returning Officer [Sec. 5B (6) Proviso].

Any nomination paper which is received after the appointed date and time or to which a certified copy of the entry relating to the candidate in the electoral roll is not attached, shall be rejected and a brief note relating to such rejection shall be recorded on the nomination paper itself [Sec. 5B(4)]. Such rejected nomination papers shall not be taken up at the stage of scrutiny.

It will be open to the Press to take note of the nominations filed from the notice board kept outside the Returning Officer's room where copies of all nomination forms will be affixed.

(B) VICE-PRESIDENT

The above provisions also apply to the election to the office of Vice-President subject to the following changes—

(a) The nomination paper should be completed in the prescribed form (*Appendix III*) (Rule 4).

(b) The nomination paper should be subscribed by the candidate as assenting to the nomination, and also by at least twenty# electors as proposers and at least twenty# electors as seconders [Sec. 5B(1) (b)].

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* The number of proposers and seconders was increased from 10 to 50 *vide* the Presidential and Vice-Presidential Elections (Amendment) Act, 1997.

The number of proposers and seconders was increased from 5 to 20 *vide* the Presidential and Vice-Presidential Elections (Amendment) Act, 1997.

SCRUTINY OF NOMINATION PAPERS

(A) PRESIDENT

Scrutiny of nomination papers filed will be held on the date specified for the purpose in the room of the Returning Officer. Every candidate, one proposer or one seconder of each candidate and one other person duly authorized in writing by each candidate can be present at the time of the scrutiny. The Returning Officer shall give them all reasonable facilities for examining the nomination papers of all candidates which have not been rejected under sub-section (4) of Section 5B (Sec. 5E). It will not be necessary to scrutinize on the date fixed for scrutiny, a nomination paper already rejected on the ground that it was not received before three o'clock in the afternoon on the last date appointed or that a certified copy of entry in the electoral roll was not attached to it. [Sec. 5E (2)]

The important points to be kept in view by the Returning Officer at the time of scrutiny of nomination papers are as follows:—

(i) At the time of scrutiny of nomination papers, the candidates— one proposer or one seconder of each candidate and one other person duly authorized in writing by each candidate—but no other person, is entitled to be present. [Sec. 5E(1)]

(ii) Candidates and their authorized representatives are entitled to all reasonable facilities for examining nomination papers of all candidates. [Sec. 5E(1)]

(iii) It shall not be necessary to scrutinize on the date fixed for the scrutiny of nominations the nomination papers already rejected under sub-section (4) of Section 5B. [Sec. 5E(2)]

(iv) Nomination paper is completed in the prescribed form and is subscribed by the candidate as assenting to nomination. [Sec. 5B(1)]

(v) There are at least fifty electors as proposers and at least fifty electors as seconders. [Sec. 5B(1) (a)]

(vi) Nomination paper is accompanied by a certified copy of the entry relating to the candidate on the electoral roll for the Parliamentary Constituency in which the candidate is registered as an elector [Sec. 5B(2)]. The candidate must have completed the age of 35 years as per information given in the electoral roll.

(vii) A proposer or seconder has not subscribed to any nomination paper delivered earlier. If he has done so, his signature shall be inoperative on the nomination paper delivered later. [Sec. 5B(5)]

(viii) Candidate has deposited ₹15,000/- as security deposit (if there are more than one nomination paper for a candidate, only one deposit is required) [Sec. 5C(1)]

The Returning Officer shall examine the nomination papers and shall decide all objections which may be made to any nomination paper and may, either on such objection or on his own motion after such summary inquiry, if any, as he thinks necessary, reject any nomination on any of the following grounds:—

(a) that on the date fixed for the scrutiny of nomination, the candidate is not eligible for election as President under the Constitution. (The age of a candidate can be verified from the entry about the age in the certified copy of the entry in the electoral roll); or

(b) that any of the proposers or seconders is not qualified to subscribe a nomination paper under sub-section (1) of Section 5B, (whether proposer or seconder is an elector or not to be verified from the list of electors supplied by the Election Commission); or

(c) that the nomination paper is not subscribed by the required number of proposers or seconders; or

(d) that the signature of the candidate or any of the proposers or seconders is not genuine or has been obtained by fraud; or

(e) that there has been a failure to comply with any of the provisions of Section 5B or Section 5C (A nomination paper received by post is rejected on this ground). [Sec.5E(3)]

The Returning Officer shall not reject any nomination paper on the ground of any defect which is not of substantial character. [Sec. 5E(5)]

The Returning Officer shall hold the scrutiny on the date appointed in this behalf under clause (b) of sub-section (1) of section 4 and shall not allow any adjournment of the proceedings except when such proceedings are interrupted or obstructed by riot or open violence or by causes beyond his control. [Sec. 5E(6)]

In case an objection is raised by the Returning Officer or is made by any other person, the concerned candidate may be allowed time to rebut it not later than the next day but one following the date fixed for scrutiny, and the Returning Officer shall record his decision on the date to which the proceedings have been adjourned. [Sec. 5E(6)]

The Returning Officer shall endorse on each nomination paper his decision accepting or rejecting the same and if the nomination paper is rejected, shall record in writing a brief statement of his reasons for such rejection. [Sec. 5E(7)]

(B) VICE-PRESIDENT

The above said provisions also apply to the election to the office of the Vice-President subject to the condition that the Returning Officer while scrutinizing the nomination papers should see that there are at least twenty proposers and at least twenty seconders for a valid nomination. [Sec. 5B(1)(b)]

WITHDRAWAL OF CANDIDATURE

(A) PRESIDENT

Any candidate may withdraw his candidature by a notice in writing in the prescribed form (*Appendix IV)* subscribed by him and delivered before the time fixed for the purpose to the Returning Officer either by such candidate in person or any one of his proposers or seconders who has been authorized on his behalf in writing by such candidate [Sec. 6(1)]. No person who has given a notice of withdrawal of his candidature shall be allowed to cancel the notice. [Sec. 6(2)]

The Returning Officer shall, on being satisfied as to the genuineness of a notice of withdrawal and the identity of the persons delivering it, cause the notice to be affixed in some conspicuous place in his office.

[Sec. 6(3) and Rule 5]

If after the expiry of the period within which candidature may be withdrawn—

(i) there is only one candidate who has been validly nominated and has not withdrawn his candidature in the manner and within the time specified, the Returning Officer shall forthwith declare such candidate to be duly elected to the office of President;

(ii) the number of candidates who have been duly nominated but have not so withdrawn their candidatures exceeds one, the Returning Officer shall prepare a list *(Appendix V)* containing the names of candidates as given in the nomination papers in alphabetical order together with their addresses and cause it to be published in the Gazette of India and in the Gazettes of all State Governments in the languages as may be directed by the Election Commission. A copy of the list shall be affixed in some conspicuous place in his office;

(iii) there is no candidate who has been duly nominated and has not so withdrawn his candidature, the Returning Officer shall report the fact to the Election Commission (Sec. 8 and Rule 6) and thereafter all the proceedings in relation to the election shall be commenced afresh and for that purpose, the Election Commission shall cancel the notification issued under Section 4(1) in respect of such election and issued another notification under that sub-section appointing the dates referred to in that sub-section for the purposes of such fresh election. [Section 8]

(B) VICE-PRESIDENT

The above provisions also apply *mutatis mutandis* to the election to the office of the Vice-President.

DEATH OF CANDIDATE BEFORE POLL

(A) PRESIDENT

In case of death of a candidate before poll whose nomination is found to be valid after scrutiny, the Returning Officer shall countermand the poll after being

satisfied about the fact of the death of the candidate. He shall report this fact to the Election Commission. All proceedings with reference to the election shall be commenced anew in all respects. [Sec. 7]

However, no further nomination shall be necessary in the case of candidate whose nomination was valid at the time of the countermanding of the poll. [Sec. 7 (First Proviso)]

Further, no person who has under Section 6(1) given a notice of withdrawal of his candidature before the countermanding of the poll, shall be ineligible for being nominated as a candidate for the election after such countermanding. [Sec. 7 (Second Proviso)]

(B) VICE-PRESIDENT

The same provisions also apply *mutatis mutandis* to the election to the office of the Vice-President.

SECURITY ARRANGEMENTS

(A) PRESIDENT

Proper security arrangements are made—

(i) for guarding the room where nomination and other confidential papers relating to election are kept;

(ii) for guarding the place where ballot boxes and ballot papers are kept;

(iii) for guarding the place where polling is held;

(iv) for guarding the place where counting is held;

(v) for bringing the polled ballot boxes from Airport to Parliament House; and

(vi) for returning ballot boxes and other papers to the Election Commission.

(B) VICE-PRESIDENT

The similar arrangements are made for election to the office of the Vice-President also except those mentioned in clause (v).

THE POLL

(A) PRESIDENT

Where a poll is to be taken, the Election Commission shall fix a place of polling in the Parliament House in New Delhi, and also in the premises in each State in which the Legislative Assembly of that State meets for the transaction of business. The Commission shall also specify with reference to each such place of polling the group of electors who will be entitled to vote, and the hours during

which the poll are taken, and give due publicity to it (Rule 7). Notifications in this regard are issued by the Election Commission and published in the Gazette of India and the Gazettes of all the States.

(B) VICE-PRESIDENT

In case of the Vice-Presidential Election, the Election Commission shall fix a place of polling in the Parliament House in New Delhi, specify the hours during which the poll will be taken and also give due publicity to the place so fixed and the hours so specified [Rule 8].

PLACES OF POLLING FOR MPs AND MLAs

(A) PRESIDENT

Parliament House will be the place of polling for the members of Parliament. However, for members of Parliament who on account of their absence from New Delhi on the date of polling may not be able to vote in the Parliament House, the Election Commission may make provision for their voting at any of the polling places at the State Capitals, according to their choice.

A member of Parliament who wishes to vote at a polling place in a State Capital should inform the Election Commission within a reasonable time, say, about 10 days before the date of poll naming the place of polling where he wishes to vote. This information may be given to the Election Commission by a letter. On receipt of the intimation, the Returning Officer in New Delhi and the Assistant Returning Officer at the State Capital where the member intends to vote, will be informed by the Commission immediately so that his voting at the named State Capital may be arranged. On the day of poll, such member of Parliament should either produce his identity card before the Assistant Returning Officer at the State Capital (who is appointed as the Presiding Officer for conducting the poll at the State Capital) or have himself otherwise identified to the satisfaction of the Assistant Returning Officer in order to be able to cast his vote. The requisite ballot paper for such an elector will be supplied by the Election Commission to the Assistant Returning Officer in advance.

The members of a State Legislative Assembly can vote only at the place of polling provided in the concerned State Capital and not at any other place. On obtaining a special permission from the Election Commission, however, a member of the Legislative Assembly of a State may vote at the place of polling in New Delhi when for unavoidable reasons he wishes to do so. If a member of a State Assembly is permitted by the Election Commission to vote at the place of polling in New Delhi for unavoidable reasons, he should either produce his identity card before the Returning Officer or have himself otherwise identified to the satisfaction of the Returning Officer in order to be able to cast his vote. The requisite ballot paper for such an elector will be supplied by the Election Commission to the Returning Officer in advance. With a view to assisting the electors, *i.e.* elected

members of either House of Parliament who are to vote at Parliament House to know their elector numbers in advance, a letter is issued to each such elector one day before the polling intimating him his elector number.

(B) VICE-PRESIDENT

Since the members of Legislative Assemblies do not form part of the electoral college which elects the Vice-President, there is no other place of polling except the Parliament House.

APPOINTMENT OF POLLING OFFICERS

(A) PRESIDENT

The Returning Officer or such Assistant Returning Officer as may be specified in this behalf by the Election Commission shall conduct the poll at each place of polling. Every such officer is called the presiding officer for the purpose of polling. The presiding officer may appoint such polling officers as he thinks necessary to assist him in taking the poll but he shall not so appoint any person who has been employed by, or on behalf of, or has been working for, a candidate in or about the election (Rule 9).

In order that polling may proceed smoothly, necessary instructions shall be issued to the polling officer appointed to assist the Returning Officer at the place of polling in Parliament House (*Appendix VI*).

(B) VICE-PRESIDENT

The same provisions also apply *mutatis mutandis* to the election to the office of the Vice-President.

SUPPLY OF BALLOT PAPERS AND BALLOT BOXES

(A) PRESIDENT

The ballot papers and ballot boxes will be supplied by the Election Commission to the Returning Officer at Parliament House and to each Assistant Returning Officer in the State Capitals. The ballot papers for MPs are printed in a colour different from the one in which ballot paper for MLAs are printed. The Election Commission will also supply an authentic copy of the list of electors who will be voting at the place of polling in Parliament House. Some spare copies (5 or 6) of the complete list of electors will also be supplied by the Commission for use of the Returning Officer.

(B) VICE-PRESIDENT

The ballot papers and ballot boxes will be supplied by the Election Commission to the Returning Officer at Parliament House. The Election Commission will also supply an authentic copy of the list of electors who will be voting at the place of polling in Parliament House. Some spare copies (5 or 6) of the complete list of electors will also be supplied by the Commission for use of the Returning Officer.

INSPECTION AND SEALING OF BALLOT BOX

(A) PRESIDENT

Immediately before the commencement of the poll, the presiding officer shall allow inspection of the ballot box to be used at the poll to such candidates and their authorized representatives as may be present at the place of polling. He shall then secure and seal the box in such a manner that the slit for the insertion of ballot papers remains open. For this purpose, after securing the latch on the top cover of the ballot box with a cloth tape, seal of the presiding officer is affixed on the tape nearest to the latch. The presiding officer shall also allow such candidate and their authorized representatives as may be present to affix their own seals, if they so desire (Rule 12).

(B) VICE-PRESIDENT

The same provisions also apply to the election to the office of the Vice-President.

ADMISSION TO THE PLACE OF POLLING

(A) PRESIDENT

Only the following persons shall be entitled to be present at the place of polling—

(i) the polling officers and other public servants on duty;

(ii) the candidates, and one representative authorized in writing by each candidate;

[In the third Presidential Election held in 1962, four letters of authority from a candidate (Dr. S. Radhakrishnan) were brought to the Returning Officer to attend the polling. The question arose whether a candidate could authorize more than one representative to attend the poll. The Returning Officer ruled that a candidate might authorize more than one representative to attend the poll but at a time only one such representative would be admitted to the place of polling.];

(iii) the electors;

(iv) persons authorized by the Election Commission; and

(v) such other persons as the presiding officer may from time to time admit for the purpose of assisting him in taking the poll (Rule 13).

(B) VICE-PRESIDENT

The same provisions also apply to the election to the office of the Vice-President.

PROCEDURE FOR GIVING BALLOT PAPERS

(A) PRESIDENT

The authentic list of the electors entitled to vote at the place of polling furnished by the Election Commission will be divided into six portions and relevant portions given to the polling officers at the six tables provided for issue of ballot papers. Immediately before a ballot paper is delivered to an elector, the following procedure in the given order shall be followed:

(i) A tick mark shall be placed against the name of the elector in the authentic list of electors;

(ii) The number of the elector as shown in that list shall be entered on the counterfoil of the ballot paper. To maintain secrecy, ballot papers will not be issued strictly in serial order but taken out at random; and

(iii) The elector shall be required to sign his name in that list in token of receipt of the ballot paper.

After all the above three steps have been completed, only thereupon but not earlier, the ballot paper shall be delivered to the elector (Rule 14).

(B) VICE-PRESIDENT

The same provisions also apply to the election to the office of the Vice-President.

FRESH BALLOT PAPER—WHEN MAY BE SUPPLIED

(A) PRESIDENT

An elector who has inadvertently dealt with his ballot paper in such a manner that it cannot be conveniently used as a ballot paper may, on delivering it to the presiding officer and on satisfying him of the inadvertence, obtain another ballot paper in place of the ballot paper so delivered, and the latter shall together with its counterfoil, be marked as cancelled by the presiding officer. Any ballot paper so cancelled shall be kept in a separate envelope set apart for the purpose (Rule 15).

(B) VICE-PRESIDENT

The same provisions also apply to the election to the office of the Vice-President.

VOTING PROCEDURE

(A) PRESIDENT

Every elector shall have as many preferences as there are candidates but no ballot paper shall be considered invalid solely on the ground that all such preferences are not marked.

An elector in giving his vote:—

(i) shall place on his ballot paper the figure 1 in the space opposite the name of the candidate whom he chooses for the first preference, and

(ii) may, in addition, mark as many subsequent preferences as he wishes by placing on his ballot paper the figures 2, 3, 4 and so on in the spaces opposite the names of other candidates, in order of preference.

The figures referred to at (i) and (ii) above may be marked in the international form of Indian numerals or in the Roman form or in the form used in any Indian language but shall not be indicated in words (Rule 17).

Every elector to whom a ballot paper has been delivered shall maintain secrecy of voting within the place of polling and for that purpose shall forthwith—

(i) proceed to one of the voting compartments;

(ii) record his vote in accordance with the aforesaid manner;

(iii) fold the ballot paper so as to conceal his vote;

(iv) insert the folded ballot paper into the ballot box; and

(v) quit the place of polling.

Every elector shall vote without undue delay and no elector shall be allowed to enter a voting compartment when another elector is inside it (Rule 18).

(B) VICE-PRESIDENT

The above provisions apply *mutatis mutandis* to the election to the office of the Vice-President. The Schedule of the Act relating to the instructions for determination of result provides that every ballot paper represents at each count in a Vice-Presidential Election, one vote (*Appendix VII*).

VOTING BY ILLITERATE OR DISABLED ELECTOR

(A) PRESIDENT

If an elector is unable to read the ballot paper or to record his vote in accordance with the prescribed manner by reason of—

(i) illiteracy or blindness; or

(ii) not being conversant with the language in which the ballot papers are printed; or

(iii) any physical or other disability.

The presiding officer shall record the vote on the ballot paper in accordance with the wishes of the elector. He shall also keep a brief record of each such instance but shall not indicate therein the manner in which any vote has been cast (Rule 19).

(B) VICE-PRESIDENT

The same provisions also apply *mutatis mutandis* to the election to the office of the Vice-President.

VOTING BY ELECTOR UNDER DETENTION

(A) PRESIDENT

An elector may, if he is subjected to preventive detention under any law for the time being in force, give his vote by postal ballot, in such a case, the Election Commission sends by registered post to the officer-in-charge of the jail where elector is detained, appropriate ballot paper together with a form of declaration of identity and attestation of signatures and necessary envelopes specially prepared for the purpose and a letter of instructions. On the date of poll, the jail authorities give ballot paper and other necessary papers to the elector, allow him time not exceeding two hours to record his vote, and thereafter send the ballot paper and other papers in the sealed cover either by registered post or through a special messenger. These postal ballot papers on receipt by the Returning Officer, are kept along with the ballot boxes and an account thereof is kept in a separate register (Rule 26).

(B) VICE-PRESIDENT

The same provisions also apply to the election to the office of the Vice-President.

ACCOUNT OF BALLOT PAPERS

(A) PRESIDENT

At the close of the poll, the presiding officer shall prepare a ballot paper account in the prescribed form (*Appendix VIII*) and enclose it in a separate cover with the words "Ballot Paper Account" superscribed thereon. He shall permit the authorized representative of a candidate, who so desires, to take a true copy of the entries in the ballot paper account and shall attest it as true copy (Rule 20).

(B) VICE-PRESIDENT

The same provisions also apply to the election to the office of the Vice-President.

CLOSE OF POLL AND SEALING UP OF BALLOT BOXES AND PAPERS

(A) PRESIDENT

The presiding officer shall close the place and polling at the hour fixed for the close of the poll and shall not admit therein any elector after that hour. However, all electors present at the place before it is so closed, shall be entitled to have their votes recorded [Rule 13(2)].

After the close of poll, the presiding officer shall in the presence of such candidates and their authorized representatives as may be present, close and seal up the slit as well as the ballot box. [The ballot box is placed in a cloth bag whose mouth is thereafter stitched with thread and seal(s) affixed thereon].

He shall also make up into separate packets:—

(i) the copy of the list of electors marked by the polling officers and bearing the signatures of the electors in token of ballot papers having been issued to them;

(ii) the counterfoils of ballot papers;

(iii) the ballot papers that have been cancelled;

(iv) the unused ballot papers, and seal each such packet with his own seal and the seals of those candidates and their authorized representatives who may desire to affix their seals thereon (Rule 21).

The ballot boxes containing the votes of members of the State Legislative Assemblies will be brought to Parliament House by the Assistant Returning Officer of the State concerned or some other officer authorized by him, under proper police escort. Before taking possession of any such ballot box, it will be ensured that it has been properly sealed and the seal is intact.

(B) VICE-PRESIDENT

The similar provisions *mutatis mutandis* also apply to the election to the office of the Vice-President.

COUNTING OF VOTES AND DECLARATION OF RESULTS

(A) PRESIDENT

The counting of votes shall take place at the office of the Returning Officer in New Delhi on the date and at the time appointed by the Election Commission for the purpose. The Election Commission shall give notice to all the candidates of the date and time so appointed (Rule 27).

(B) VICE-PRESIDENT

The Returning Officer takes up the counting of the votes at the hour fixed for such counting which is normally on the same day on which the poll is taken.

ADMISSION TO THE PLACE OF COUNTING

(A) PRESIDENT

The Returning Officer shall exclude from the place fixed for counting of votes, all persons except:—

(i) such persons as he may appoint to assist him in the counting;

(ii) the candidates and one representative at a time of each candidate authorized in writing by the candidate;

(iii) public servants on duty in connection with the election; and

(iv) persons authorized by the Election Commission (Rule 28).

(B) VICE-PRESIDENT

The same provisions also apply to the election to the office of the Vice-President.

MAINTENANCE OF SECRECY OF VOTING

(A) PRESIDENT

Those on duty in connection with the recording or counting of votes shall maintain and aid in maintaining the secrecy of the voting. A breach of this provision is punishable with imprisonment upto three months, or with fine, or with both. Rule 29 framed under the Act further provides that Section 22 of the Act which makes this provision, shall be read out in full by the Returning Officer to all counting officers before the commencement of counting. The section reads as follows:—

"22 (1) Every officer, clerk or other person who performs any duty in connection with the recording or counting of votes at an election shall maintain, and aid in maintaining, the secrecy of the voting and shall not (except for some purpose authorized by or under any law) communicate to any person any information calculated to violate such secrecy.

(2) Any person who contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to three months, or with fine, or with both."

(B) VICE-PRESIDENT

The same provisions also apply to the election to the office of the Vice-President.

BALLOT PAPERS WHEN INVALID

(A) PRESIDENT

A ballot paper shall be invalid on which:—

(i) the figure 1 is not marked; or

(ii) the figure 1 is marked opposite the name of more than one candidate or is so marked as to render it doubtful to which candidate it is intended to apply; or

(iii) the figure 1 and some other figures are marked opposite the name of the same candidate; or

(iv) any mark is made by which the elector may afterwards be identified.

A ballot paper shall also be invalid if, being a postal ballot paper the signatures of the elector is not duly attested (Rule 31).

(B) VICE-PRESIDENT

The same provisions also apply to the election to the office of the Vice-President.

PROCEDURE UPON OPENING EACH BALLOT BOX

(A) PRESIDENT

After all the ballot boxes and sealed covers, if any, have been opened, the Returning Officer shall:—

(i) count the number of ballot papers taken out therefrom and complete Part-II of the Ballot Paper Account Form (*Appendix VIII*);

(ii) scrutinize the ballot papers and separate those which in his opinion are valid from those which in his opinion are invalid, endorsing on the latter the word "rejected" and the ground of rejection; and

(iii) arrange all the valid ballot papers in parcels according to the first preferences recorded for each candidate.

If the ballot box used at a place of polling contains ballot papers of electors who at their request are specially permitted by the Election Commission to cast their votes at the said place of polling, such ballot papers shall, after the counting and recording in the prescribed form (*Appendix VIII*) is completed, be separated and added to the other ballot papers of the same kind used by electors in the same category and shall thereafter be scrutinized (Rule 32).

In the 1969 Presidential Election, the Election Commission had issued instructions that ballot papers of those MPs and MLAs who had, after intimation to or permission of the Commission, voted at a place different from their fixed place of voting, shall be counted in the following manner:—

(i) The ballot papers of Members of Parliament who have, after intimation to the Election Commission, voted at the State Capitals should be counted along with ballot papers of Members of Parliament who have voted in Parliament House.

(ii) Similarly, the ballot paper of a Member of the Legislative Assembly who has, with the permission of the Election Commission voted in Parliament House, should be counted along with the ballot papers of the Members of the Legislative Assembly who have voted at the concerned State Capital.

(B) VICE-PRESIDENT

The same provisions also apply *mutatis mutandis* to the election to the office of the Vice-President.

The Returning Officer scrutinizes the ballot papers first and separates the invalid votes. The valid ballot papers are distributed among the contesting candidates by placing the valid ballot papers according to first preference marked therein in the tray meant for the candidate. After distributing all the valid ballot papers, the Returning Officer totals the valid ballot papers credited to each candidate.

DETERMINATION OF RESULT

(A) PRESIDENT

After all ballot boxes and sealed covers have been opened and the ballot papers have been scrutinized and arranged, the Returning Officer shall proceed to determine the result of the voting in accordance with the following procedure:—

(i) ascertain the number of first preference votes secured by each candidate and credit him with that number;

(ii) add up the numbers so credited to all the candidates, divide the total by two, and add one to the quotient disregarding any remainder. The resulting number is the quota sufficient to secure the return of a candidate at the election;

(iii) if at the end of the first or any subsequent count, the total number of votes credited to any candidate is equal to, or greater than, the quota or there is only one continuing candidate, the candidate is declared elected;

(iv) if at the end of any count, no candidate can be declared elected :—

  (a) credited with the lowest number of votes;

  (b) examine all the ballot papers in his parcel and sub-parcels, arrange the unexhausted papers in sub-parcels according to the next available preferences recorded thereon for the continuing candidates, count the number of votes in each such sub-parcel and credit it to the candidate for whom such preference is recorded, transfer the sub-parcel to that candidate, and make a separate sub-parcel of all the exhausted papers; and

  (c) see whether any of the continuing candidates have, after such transfer and credit, secured the quota.

(v) If, when a candidate, has to be excluded under (a) above, two or more candidates have been credited with the same number of votes and stand lowest on the poll, exclude that candidate who had secured the lowest number of first preference votes, and if that number also was the same in the case of two or more candidates, decide by lot which of them shall be excluded; and

(vi) All the sub-parcels of exhausted papers referred to in (b) above shall be set apart as finally dealt with and the votes recorded thereon shall not thereafter be taken into account (Schedule to the Rules).

ILLUSTRATION

Supposing the total number of valid votes is 10,000 and there are four candidates A,B,C and D. Let us assume they have polled as follows:—

A	3,500
B	3,200
C	1,800
D	1,500

The quota in the given case will be $\frac{10,000}{2} + 1 = 5001$. Hence no candidate, who has failed to secure 5,001 votes, can be elected under the system of proportional representation. If any candidate has got 5,001 votes or more according to the first preference, he is at once elected and it is not necessary to count the subsequent preference. But, if, as in the instant case no candidate has secured this quota, the subsequent preferences have to be counted. In the second count, therefore, 'D' who has received the lowest number of first preference votes will be eliminated, and his electors' second preference votes will be distributed according to the names, if any marked 2 on them. The papers on which no second preference is marked will be regarded as 'exhausted'.

The process will be repeated as often as necessary until a candidate with a quota is found out or there is only one continuing candidate.

(B) VICE-PRESIDENT

After counting the total valid votes polled by each candidate, the Returning Officer totals up the valid votes polled by all the contesting candidates. The quota for declaring a candidate as elected is determined by dividing the total valid votes by 2 and adding one to the quotient, ignoring the remainder, if any.

For example, assuming the total of valid votes polled by all candidates is 789. The quota required for getting elected is:—

$$\frac{789}{2} + 1 = 394.50 + 1 \text{ [Ignore .50]}$$

$$\text{Quota} = 394 + 1 = 395$$

After ascertaining the quota, the Returning Officer has to see whether any candidate secured the quota for being declared as elected on the basis of the total of first preference votes polled by him/her.

If no candidate gets the quota on the basis of first preference votes, then the Returning Officer proceeds further to second round of counting during which the candidate having lowest number of votes of first preference is excluded and his votes are distributed among the remaining candidates according to the second

preference marked on these ballot papers. The other continuing candidates receive the votes of excluded candidate at the same value of ONE.

The Returning Officer will go on excluding the candidates with lowest number of votes in subsequent rounds of counting till either one of the continuing candidates gets the required quota or till only one candidate remains in the field as the sole continuing candidate and declares him as elected.

DECLARATION OF RESULT

(A) PRESIDENT

When the counting is completed and the result of the voting has been determined, the Returning Officer shall forthwith:—

(i) announce the result to those present [for the declaration to be made by the Returning Officer (*Appendix IX*)];

(ii) report the result to the Central Government and the Election Commission;

(iii) prepare and certify a return of the election in the prescribed form (*Appendix X*); and

(iv) seal up in separate packets the valid ballot papers and the rejected ballot papers and record on each such packet a description of its contents (Rule 35).

The declaration mentioned at (i) above is at once communicated by the Returning Officer to the Election Commission and the Ministry of Law and Justice. The certified return mentioned at (iii) above is also forwarded to the Election Commission.

(B) VICE-PRESIDENT

The same provisions also apply *mutatis mutandis* to the election to the office of the Vice-President.

RETURN OF BALLOT BOXES AND ELECTION PAPERS

(A) PRESIDENT

After the result has been declared, the ballot boxes and sealed packets containing papers, such as:—

(i) nomination papers (both accepted and rejected);

(ii) authentic list of electors marked in accordance with Rule 14 of the Presidential and Vice-Presidential Elections Rules, 1974;

(iii) counterfoils of ballot papers issued to electors;

(iv) cancelled ballot papers;

(v) unused ballot papers;

(vi) valid ballot papers;

(vii) rejected ballot papers; and

(viii) Ballot Papers Account in the prescribed form (*Appendix VIII*) will be sent to the Election Commission under proper police escort.

When any candidate, whose deposit has not been forfeited under the law, applied for return of the security deposit made by him, necessary authorization will be issued to him after examining the relevant papers.

(B) VICE-PRESIDENT

The same provisions also apply to the election to the office of the Vice-President.

APPENDICES

APPENDIX I

FORM 1

(*See* rule 3)

PUBLIC NOTICE OF ELECTION TO THE OFFICE OF
*PRESIDENT/*VICE-PRESIDENT OF INDIA

WHEREAS a notification under sub-section (1) of section 4 of the Presidential and Vice-Presidential Elections Act, 1952, for the holding of an election to fill the office of President/Vice-President of India has been issued by the Election Commission, I, ... the Returning Officer for such election, do hereby give notice that—

(i) nomination papers may be delivered by a candidate or any one of his proposers or seconders to the undersigned at his office in..... New Delhi, or if he is unavoidably absent to ..... at the said office between 11 A.M. and 3 P.M. on any day (other than a public holiday) not later than the ..... ;

(ii) each nomination paper shall be accompanied by a certified copy of the entry relating to the candidate in the electoral roll for the Parliamentary Constituency in which the candidate is registered as an elector;

(iii) every candidate shall deposit or cause to be deposited a sum of rupees fifteen thousand only. This amount may be deposited in cash with the Returning Officer at the time of presentation of the nomination paper or deposited earlier in the Reserve Bank of India or in a Government Treasury and in the latter case a receipt showing that the said deposit of the sum has been so made is required to be enclosed with the nomination paper;

(iv) forms of nomination papers may be obtained from the above said office at the times aforesaid;

(v) the nomination papers, other than those rejected under sub-section (4) of section 5B of the Act, will be taken up for scrutiny at ..... (*place*) on ..... (*date*) at ..... (*hours*);

(vi) the notice of withdrawal of candidature may be delivered by a candidate, or any one of his proposers or seconders who has been authorised in this behalf in writing by the candidate, to the undersigned at the place specified in paragraph (i) above before three o'clock in the afternoon of ..... (*date*);

*strike off if inapplicable.

(vii) in the event of the election being contested, the poll will be taken on.....(date) between the hours of.....and .....at the place of polling fixed under this rules.

Place .....

Dated the .....

(*Signature*) .....

(*Returning Officer*)

(*Designation*) .....

APPENDIX II

FORM 2

(*See* rule 4)

NOMINATION PAPER

ELECTION TO THE OFFICE OF THE PRESIDENT OF INDIA

We hereby nominate .....
(*Full name and address of the candidate*)

as a candidate for election to the office of the President of India.

We have verified, and do hereby declare, that the said candidate has completed the age of 35 years and is registered in the electoral roll for the Parliamentary constituency of ..... in the State of ..... .

A certified copy of the entry in that electoral roll relating to the said candidate is attached.

We further declare that we are members of the electoral college referred to in article 54 of the Constitution being elected members of the House of the People or Council of States or the Legislative Assembly as indicated hereunder and we append our signatures below in token of subscribing to this nomination:—

Particulars of the proposers and their signatures

Sl. No.	Full name	Whether elected member of the House of the People/Council of States/Legislative Assembly	State/Union Territory (in the case of member elected to the House of the People or Council of States from a Union Territory) in/from which elected	Signature	Date
1	2	3	4	5	6
1.					
2.					
3.					
4.					
5.					
6.					

1	2	3	4	5	6
7.					
8.					
9.					
10.					
11.					
12.					
13.					
14.					
15.					
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28.					
29.					
30.					
31.					
32.					
33.					
34.					
35.					
36.					
37.					

1	2	3	4	5	6
38.					
39.					
40.					
41.					
42.					
43.					
44.					
45.					
46.					
47.					
48.					
49.					
50.					
51.					
52.					
53.					
54.					
55.					
56.					
57.					
58.					
59.					
60.					
*etc.					

*There should be at least fifty electors as proposers.

Particulars of the seconders and their signatures

Sl. No.	Full name	Whether elected member of the House of the People/Council of States/Legislative Assembly	State/Union Territory (in the case of member elected to the House of the People or Council of States from a Union Territory) in/from which elected	Signature	Date
1	2	3	4	5	6
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					
11.					
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22.					
23.					
24.					
25.					

1	2	3	4	5	6
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27.					
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32.					
33.					
34.					
35.					
36.					
37.					
38.					
39.					
40.					
41.					
42.					
43.					
44.					
45.					
46.					
47.					
48.					
49.					
50.					
*etc.					

*There should be at least fifty electors as seconders.

I assent to this nomination.

.....

Signature of candidate

Date.....

(To be filled by the Returning Officer)

Serial Number of nomination paper.....

This nomination paper was delivered to me at my office at .....(*hour)* on.....*(date)* by the candidate/ proposer.....*(name)*/seconder..... *(name)* with enclosures as indicate below purporting to be—

(1)

(2)

Date..... .....
Returning Officer

[Decision of the Returning Officer (if any) under sub-section (4) of section 5B]

I have rejected this nomination paper under sub-section (4) of section 5B of the Presidential and Vice-Presidential Elections Act, 1952 for the reasons given below—

Date..... .....
Returning Officer

Decision of the Returning Officer accepting or rejecting the Nomination Paper

I have examined this nomination paper in accordance with section 5E of the Presidential and Vice-Presidential Elections Act, 1952 and decide as follows:—

Date..... .....
Returning Officer

- - - -

[2. The nomination paper of this candidate has been rejected by me under sub-section (4) of section 5B of the Presidential and Vice-Presidential Elections Act, 1952, for the reasons given below:—]

Date..... .....

Returning Officer

[] Strike out if not applicable

APPENDIX III

FORM 3

(*See* rule 4)

NOMINATION PAPER

ELECTION TO THE OFFICE OF THE VICE-PRESIDENT OF INDIA

We, the undersigned Members of the electoral college referred to in article 66 of the Constitution being Members of Parliament hereby nominate..... (*full name and address of candidate)* as a candidate for election to the office of the Vice-President of India.

We have verified, and do hereby declare, that the said candidate has completed the age of 35 years and is registered in the electoral roll for the Parliamentary Constituency of ..... in the State of ....

A certified copy of the entry in that electoral roll relating to the said candidate is attached. We furnish our full particulars as indicated hereunder and append our signatures below in token of subscribing to this nomination.

Particulars of the proposers and their signatures

Sl.No.	Full name	Whether member of the House of the People/Council of States	State/Union territory from which elected	Signature	Date
1	2	3	4	5	6
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					

1	2	3	4	5	6
9.					
10.					
11.					
12.					
13.					
14.					
15.					
16.					
17.					
18.					
19.					
20.					
*etc.					

*There should be at least twenty electors as proposers.

Particulars of the Seconders and their signatures

Sl.No.	Full name	Whether member of the House of the People/Council of States	State/Union territory from which elected	Signature	Date
1	2	3	4	5	6
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					

1	2	3	4	5	6
10.					
11.					
12.					
13.					
14.					
15.					
16.					
17.					
18.					
19.					
20.					
*etc.					

*There should be atleast twenty electors as seconders.

I assent to this nomination.

.....

Signature of candidates

Date.....

(To be filled by the Returning Officer)

Serial Number of nomination paper..... .....

This nomination paper was delivered to me at my office at .....*(hour)* on.....*(date)* by the candidate/proposer.....(name)/ seconder.....(name) with enclosures as indicated below purporting to be—

(1)

(2)

Date..... .....

Returning Officer

[Decision of the Returning Officer (if any) under sub-section (4) of section 5B]

I have rejected this nomination paper under sub-section (4) of section 5B of the Presidential and Vice-Presidential Elections Act, 1952, for the reasons given below:—

Date..... .....

Returning Officer

Decision of the Returning Officer accepting or rejecting the Nomination Paper

I have examined this nomination paper in accordance with section 5E of the Presidential and Vice-Presidential Elections Act, 1952 and decide as follows:—

Date..... .....

Returning Officer

Receipt for Nomination Paper and Notice of Scrutiny

(To be handed over to the person presenting the nomination paper)

Serial Number of the nomination paper.....

The nomination of..... (*name*), a candidate for election to the office of the Vice-President of India was delivered to me at my office at.....*(hours)* on.....*(date)* by the candidate/ proposer.....*(name)*/seconder.....*(name).*

All nomination papers other than those rejected under sub-section (4) of section 5B of the Presidential and Vice-Presidential Elections Act, 1952, will be taken up for scrutiny at.....(*hour*) on.....(*date*) at.....(*place*).

[2. The nomination paper of this candidate has been rejected by me under sub-section (4) of section 5B of the Presidential and Vice-Presidential Elections Act, 1952, for the reasons given below:—]

Date..... .....

Returning Officer

[] Score out if not applicable.

APPENDIX IV

FORM 4

[*See* rule 5 (1)]

NOTICE OF WITHDRAWAL

To,

The Returning Officer for the election to the office of President / Vice-President of India.

I, ...(*name*) of.....(*address*) a candidate at the above-mentioned election do hereby give notice that I withdraw my candidature.

Place.....

Date.....

.....

Signature of candidate

Note:— The notice of withdrawal is required to be delivered under section 6(1) of the Presidential and Vice-Presidential Elections Act, 1952, by the candidate in person or by any one of his proposers or seconders who has been authorised in this behalf in writing by such candidate.

APPENDIX V

FORM 5

(*See* rule 6)

ELECTION TO THE OFFICE OF PRESIDENT/VICE-PRESIDENT OF INDIA

List of Contesting Candidates

Sl. No.	Name of candidate	Address of candidate
1.		
2.		
3.		
4.		
etc.		

Place.....

Date.....

.....

Returning Officer

APPENDIX VI

INSTRUCTIONS FOR POLLING OFFICERS

The poll for the Presidential Election will be taken on..... from.....A.M. to.....P.M. in Room No. ..... Parliament House, New Delhi.

2. All elected members of both Houses of Parliament are entitled to vote at the above election at Parliament House.

3. In the List of Electors for the Presidential Election, issued by the Election Commission, there is a serial number for each elector.

4. Six tables will be placed in Room No. .....for the polling officers. Two polling officers will be in charge of each table. Ballot papers will be issued by them to the electors as under:—

Table	*Sl. Nos. of electors*
1	
2	
3	
4	
5	
6	

Placards indicating the above arrangement will be displayed behind the seats of the polling officers.

5. All the polling officers may please report for duty in Room No. ..... at.....A.M. on the.....

6. At.....A.M. ballot papers and the relevant part of the authentic list of electors will be handed over to the polling officers.

7. When an elector comes to the table, the polling officer will—

(i) ascertain his name, State and serial number in the list of electors and check them up with the list of electors;

(ii) put a tick-mark in ink on the left hand side against the name of the elector in the said list;

(iii) enter in ink the serial number given in that list on the counterfoil of the ballot paper;

(iv) obtain the elector's signature in ink against his name in the remarks column of the said List in token of receipt of the ballot paper, whereupon but not earlier deliver the ballot paper to him. (The ballot papers will not be given to the electors serially. They may be taken out at random); and

(v) direct him to go to one of the booths, record his vote there on the ballot paper, fold it and insert the same in the ballot box in front of the presiding officer.

8. In case, any elector wants to know the manner of recording votes, instructions given on the back side of the ballot paper may be explained to him.

9. If any elector who has been already supplied with a ballot paper asks for a fresh ballot paper, the polling officer will refer him to the presiding officer. A fresh ballot paper shall not be given to an elector by a polling officer unless the presiding officer has so directed.

10. If an elector after obtaining a ballot paper decides not to use the same, he has to return the unused ballot paper to the presiding officer and not to the polling officer. The polling officer will refer the elector to the presiding officer in such cases.

11. If any elector owing to illiteracy or blindness or physical or other disability is unable to record his vote, he will be referred to the presiding officer for necessary assistance. A record of every such case will be kept separately.

12. At the end of poll, the polling officers will render account of the ballot papers furnished to them to the presiding officer in the attached proforma.

13. Polling Officers will maintain and aid in maintaining, the secrecy of the voting. In that connection, the provisions of section 22 of the Presidential and Vice-Presidential Elections Act, 1952, read as follows:—

"22. *Maintenance of secrecy of voting*— (1) Every officer, clerk or other persons who performs any duty in connection with the recording or counting of votes at an election shall maintain and aid in maintaining, the secrecy of the voting and shall not (except for some purpose authorised by or under any law) communicate to any persons any information calculated to violate such secrecy.

(2) Any person who contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to three months, or with fine or with both".

New Delhi
Date.....

Returning Officer and Presiding Officer
for the Presidential Election

APPENDIX VII

THE SCHEDULE

(*See* rule 33)

INSTRUCTIONS FOR THE DETERMINATION OF RESULT

1. In this Schedule:—

   (1) the expression "continuing candidate" means any candidate not elected and not excluded from the poll at any given time;

   (2) the expression "first preference" means the figure 1 set opposite the name of any candidate, the expression "second preference" similarly means the figure 2, the expression "third preference" the figure 3, and so on;

   (3) the expression "next available preference" means the second or subsequent preference recorded in consecutive numerical order for a continuing candidate, preferences for candidates already excluded being ignored;

   (4) the expression "unexhausted paper" means a ballot paper on which no further preference is recorded for a continuing candidate;

   (5) the expression "exhausted paper" means a ballot paper on which no further preference is recorded for a continuing candidate, provided that a paper shall be deemed to be exhausted in any case in which—

      (a) the names of two or more candidates whether continuing or not are marked with the same figure and are next in order of preference; or

      (b) the name of the candidate next in order of preference, whether continuing or not, is marked by a figure not following consecutively after some other figure on the ballot paper or by two or more figures.

2. Every ballot paper represents at each count:—

   (*a*) in a Presidential Election, the number of votes as determined under rule 30; and

   (*b*) in a Vice-Presidential Election, one vote.

3. Ascertain the number of first preference votes secured by each candidate and credit him with that number.

4. Add up the numbers so credited to all the candidates, divide the total by two and add one to the quotient disregarding any remainder. The resulting number is the quota sufficient to secure the return of a candidate at the election.

5. If at the end of the first or any subsequent count, the total number of votes credited to any candidate is equal to, or greater than, the quota, or there is only one continuing candidate, that candidate is declared elected.

6. If at the end of any count, no candidate can be declared elected:—

(a) exclude the candidate who up to that stage has been credited with the lowest number of votes;

(b) examine all the ballot papers in his parcel and sub-parcels, arrange the unexhausted papers in sub-parcels according to the next available preferences recorded thereon for the continuing candidates, count the number of votes in each such sub-parcel and credit it to the candidate for whom such preference is recorded, transfer the sub-parcel to that candidate and make a separate sub-parcel of all the exhausted papers; and

(c) see whether any of the continuing candidates has, after such transfer and credit, secured the quota.

If, when a candidate has to be excluded under clause (*a*) above, two or more candidates have been credited with the same number of votes and stand lowest on the poll, exclude that candidate who had secured the lowest number of first preference votes and if that number also was the same in the case of two or more candidates, decide by lot which of them shall be excluded.

All the sub-parcels of exhausted papers referred to in clause (*b*) above shall be set apart as finally dealt with and the votes recorded thereon shall not thereafter be taken into account.

APPENDIX VIII

FORM 6

(*See* rule 20)

PART I — BALLOT PAPER ACCOUNT

ELECTION TO THE OFFICE OF PRESIDENT/VICE-PRESIDENT OF INDIA

Name of the place of polling.....

	Serial numbers		Total numbers
	From	to	
1. Ballot papers received			
2. Ballot papers unused			
3. Ballot papers issued to voters			
4. Ballot papers cancelled			

Date..... .....

Signature of Presiding Officer

PART II— RESULT OF COUNTING

(*See* rule 32)

(1) Total number of ballot papers found in the ballot box (boxes) used at the place of polling.....

(2) Discrepancy if any between the total number as shown against item (*1*) in this Part and the total number of ballot papers issued to voters as shown in item 3 of Part 1 *minus* the number of ballot papers cancelled as shown in item 4 of Part I.

Date..... .....

Signature of Returning Officer

APPENDIX IX

DECLARATION

In pursuance of the provision contained in section 11 of the Presidential and Vice-Presidential Elections Act, 1952 (31 of 1952), read with rule 35 of the Presidential and Vice-Presidential Elections Rules, 1974, I, the Returning Officer for the Presidential Election hereby declare that Shri/Smt. ..... *(address)*.....has been duly elected to the office of the President/Vice-President of India.

New Delhi .....

Date..... *Returning Officer*

APPENDIX X

FORM 7

[*See* rule 35 (1) (c)]

RETURN OF ELECTION TO THE OFFICE OF THE PRESIDENT/ VICE-PRESIDENT OF INDIA

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Name of Candidate	Votes secured at first count	Votes credited at first exclusion	Total of Columns 3 and 4	Votes credited at second exclusion	Total of Columns 5 and 6	Votes credited at third exclusion	Total of columns 7 and 8	Votes credited at fourth exclusion	Total of columns 9 and 10				
	Exhausted Votes													
	Total													

Total number of valid ballot papers.....representing.....votes

Total number of invalid ballot papers.....representing.....votes

I declare that

(Name).....

(Address).....

has been duly elected to the office of the President/Vice-President of India.

Place..... .....

Date..... *Returning Officer*

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